

OPTOMETRY EXAMINING BOARD
REGULAR MEETING
MAY 12, 2000

MEMBERS PRESENT: Lynn LeCount; Leon Griffin, OD; Jeff Sarazen, OD; Kerry Griebenow, OD; Heather Hinson, OD; Chris Hubbell, OD

LEGAL COUNSEL: Ruby Jefferson-Moore

STAFF PRESENT: Kimberly Nania, Patrick Braatz, Karen Rude-Evans

GUESTS: Dick Wright; David Nelson; Doug Stine; Representing WOA: Peter Theo, Dr. Charles Brownlow, Dr. Daniel DeWinter, Dr. Scott Jens, Tony Driessen, John Bonsett-Veal, Charlotte Burns, Brian Hammes, Lisa Mleczka, Bill Knutson, Eric Knight (WOA member); Representing Wisconsin Academy of Ophthalmology: Rich Paul, Laura Leitch, William Penland

CALL TO ORDER

Chair Chris Hubbell called the meeting to order at 9:32 a.m.

APPROVAL OF AGENDA

MOTION: Leon Griffin moved, seconded by Heather Hinson, to approve the agenda as published with the published addendum. Motion carried unanimously.

APPROVAL OF MINUTES OF MARCH 17, 2000

MOTION: Leon Griffin moved, seconded by Jeff Sarazen, to approve the minutes of March 17, 2000 as written. Motion carried unanimously.

SECRETARY CUMMINGS

Secretary Cummings was not available. Deputy Secretary Bill Conway briefly addressed the Board.

PRESENTATION OF PROPOSED STIPULATIONS

There were no stipulations.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES

These reports were informational.

UPDATE ON THE AMERICAN BOARD OF OPTOMETRIC PRACTICE

The Board reviewed the letter from Donald R. Gordon, but cannot intervene in this issue.

ACTIONS BY COE OF AOA

This item was informational.

SENATE BILL 389 RELATING TO CE FOR OPTOMETRISTS

This item was informational.

CORRESPONDENCE FROM NORTH CAROLINA BOARD RELATING TO ABOP CERTIFICATION ISSUE

This item was informational.

REQUEST FOR BOARD REPORTS FROM ARBO

Heather Hinson has prepared a written report, but is unable to attend the meeting. There will not be a Board representative at this year's meeting.

ARBO WEBSITE ON CE

This item was informational, and will be referenced in the Regulatory Digest.

VISITOR'S COMMENTS

Charles Brownlow stated Madison Area Technical College (MATC) is offering online learning in optometry, and is looking into the possibility of online CE courses.

RECESS TO CLOSED SESSION

MOTION: Leon Griffin moved, seconded by Jeff Sarazen, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g). Wis. Stats., for the purpose of reviewing a DPA/TPA certification application, reviewing case status report and consulting with legal counsel. Roll call vote: Chris Hubbell – yes, Jeff Sarazen – yes, Heather Hinson – yes, Kerry Griebenow –yes, Leon Griffin – yes, Lynn LeCount - yes. Motion carried unanimously.

Open session recessed at 10:15 a.m.

RECONVENE IN OPEN SESSION

MOTION: Jeff Sarazen moved, seconded by Heather Hinson, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 11:00 a.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

APPLICATION REVIEW

DAVID ELDRIDGE

MOTION: Kerry Griebenow moved, seconded by Heather Hinson, to recommend to the Department to issue a DPA certification to David Eldridge. Motion carried unanimously.

MOTION: Kerry Griebenow moved, seconded by Jeff Sarazen, to grant a TPA certification to David Eldridge. Motion carried unanimously.

PETITION AND PRESENTATION FROM WOA TO PROMULGATE AN
ADMINISTRATIVE RULE LIMITING AND IMPOSING CONDITIONS PRECEDENT TO
WISCONSIN OPTOMETRISTS UTILIZING LASERS IN THEIR PRACTICE

Attorney Tony Driessen, representing the Wisconsin Optometric Association, presented a petition for an emergency rule to the Board.

Legal Counsel's discussions and recommendations relating to the Petition for Rules:

(1) Purpose of rules relating to unprofessional conduct.

- (a) Establish standards of conduct and provide notice to licensees of standards.
- (b) Protection of the public.

(2) Petition for Rules - s. 227.12, Wis. Stats.

- (a) Requirements
- (b) Determination within a reasonable time period.
 - Since the Board received the Petition this week and a signed copy today, it is recommended that the matter be tabled until the next meeting.

(3) Emergency Rules - 227.24, Wis. Stats.

- The standards for an emergency rules have not been met in this case.

(4) Need for a Rule

- The Board has existing rules that provide guidance to optometrists and protection to the public. [Refer to s. Opt 5.15 (1) and (2), Code]

(5) Options

- (a) Grant the Petition and adopt the emergency rules, as proposed.
 - There are question regarding whether adoption of the rules would exceed the bounds of correct interpretation. [227.11 (2), Stats.]
 - There are concerns with the proposed rule language.
- (b) Grant the petition, with modifications. [with or without emergency rules.]

(c) Deny the petition. The Association may appeal the Board's decision.

(6) Additional factors

(a) Request an Attorney General's Opinion relating to the statutory authority to adopt the proposed rules.

(b) Perform a legislative intent analysis relating to the statutory authority to adopt the proposed rules.

(c) There is a question regarding whether the Board should resolve the issue relating to the use of laser surgery or whether the matter should be referred to the Legislature.

(d) In reference to the use of lasers, identify the potential harm to patients.

(7) Recommendations:

Table the Petition and: 1) Refer the matter to Board Legal Counsel to review the issue regarding whether adoption of the rules would exceed the bounds of correct interpretation;

2) Request an Attorney General's Opinion relating to the statutory authority to adopt the proposed rules.

MOTION: Dr. Kerry Griebenow moved, seconded by Dr. Heather Hinson, that as current law is written in Chapter 449 of the statutes, laser procedures are within the scope of optometric practice. Motion carried unanimously.

MOTION: Leon Griffin moved, seconded by Lynn LeCount, to table the emergency rule. Motion carried unanimously.

ADJOURNMENT

MOTION: Heather Hinson moved, seconded by Leon Griffin, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 4:46 p.m.

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